

# Handbook for conducting inspections of unregistered schools

Guidance for inspectors

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This handbook sets out Ofsted's policies and procedures for conducting inspections under section 97 of the Education and Skills Act 2008 the investigation and prosecution of offences under section 96 of the Education and Skills Act 2008 (conducting an unregistered independent educational institution). This handbook should be read together with the Department for Education's '[Policy Statement: prosecuting unregistered independent schools](#)'.<sup>1</sup>

Arrangements for the regulation and inspection by Ofsted of registered independent educational institutions can be found in the 'Non-association independent schools Handbook' and the 'Handbook for additional inspections of independent schools'.<sup>2</sup>

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**Reference no:** 160043

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<sup>1</sup>Policy Statement: prosecuting unregistered independent schools' DfE, January 2016;  
[www.gov.uk/government/publications/regulating-independent-schools](http://www.gov.uk/government/publications/regulating-independent-schools).

<sup>2</sup>Non-association independent schools handbook'; [www.gov.uk/government/publications/non-association-independent-school-inspection-handbook-from-september-2015](http://www.gov.uk/government/publications/non-association-independent-school-inspection-handbook-from-september-2015).

'Handbook for additional inspections of independent schools';  
[www.gov.uk/government/publications/conducting-additional-inspections-of-independent-schools](http://www.gov.uk/government/publications/conducting-additional-inspections-of-independent-schools).



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## Part 1 – Legal basis for inspection and definition of roles

1. Under section 96 of the Education and Skills Act 2008 (the 2008 Act), in England, a person must not conduct an independent educational institution (which is defined as including independent schools) unless it is registered. A person who conducts an unregistered independent school is guilty of a criminal offence.
2. The offence is a summary offence and currently carries a maximum penalty of six months' imprisonment<sup>3</sup> or a fine.
3. Under section 97 of the Act, if Her Majesty's Chief Inspector (HMCI) has reasonable cause to believe that an offence under section 96 is being committed on any premises, HMCI through his delegates may enter and inspect the premises and may inspect and take copies of any records or other documents that HMCI has reasonable cause to believe may be required for the purposes of proceedings in relation to such an offence.
4. Under section 463 of The Education Act 1996, an 'independent school' is defined as a school that is not maintained by a local authority or is not a non-maintained special school and at which full-time education is provided (a) for five or more pupils of compulsory school age or (b) for at least one pupil of that age who is looked after by a local authority (within the meaning of section 22 of the Children Act 1989) or has a statement of special educational needs or an education, health and care plan.
5. There is no legislative definition of full-time education. The Department for Education's (DfE's) policy for full-time education is contained in Part A of the departmental advice 'Registration of independent schools'.<sup>4</sup>
6. For the purposes of this handbook, an independent educational institution that is subject to investigation, inspection and/or prosecution under section 97 of the Act will be referred to as 'the institution' throughout.

### Roles and definitions

7. The 'lead inspector' is the person in charge of the inspection and investigation, and the person responsible for directing the conduct of a criminal investigation. The lead inspector is also responsible for ensuring that proper procedures are in place for recording and retaining any information or other material that Ofsted obtains in the course of an inspection under section 97 of the 2008 Act or that it otherwise comes to hold during the course of any investigation. A criminal

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<sup>3</sup> After the commencement of section 281(5) Criminal Justice Act 2003, the maximum sentence will become 51 weeks imprisonment, a fine not exceeding level 5 on the standard scale or both.

<sup>4</sup> 'Registration of independent schools: departmental advice for proprietors and prospective proprietors of independent schools in England, DfE, January 2016; [www.gov.uk/government/publications/independent-school-registration](http://www.gov.uk/government/publications/independent-school-registration).

investigation is defined in paragraph 2.1 of the Criminal Procedure and Investigations Act Code of Practice (CPIA Code)<sup>5</sup> and the start date will be recorded by the lead inspector in each case.

8. The 'disclosure officer' is the person responsible for examining material retained by the lead inspector during the investigation; revealing material to the prosecutor during the investigation and any criminal proceedings resulting from it, and certifying that s/he has done this; and disclosing material to the accused at the request of the prosecutor.
9. The disclosure officer should normally be the same person as the lead inspector for each individual case. If for any reason this is not possible or if the lead inspector considers that a separate disclosure officer is required, the lead inspector must appoint another member of the investigation team to act as the disclosure officer.
10. For the purpose of this handbook, material will be considered relevant to an investigation if the lead inspector or disclosure officer consider that it has some bearing on any offence under investigation or any person being investigated or on the circumstances surrounding the case.
11. Ofsted will have regard to the CPIA and Code in criminal investigations.<sup>6</sup> At all stages, Ofsted will gather and retain evidence in accordance with part 4 of this handbook and with the CPIA and Code.

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<sup>5</sup> Criminal Procedure and Investigations Act Code of Practice, [www.gov.uk/government/publications/criminal-procedure-and-investigations-act-code-of-practice](http://www.gov.uk/government/publications/criminal-procedure-and-investigations-act-code-of-practice)

<sup>6</sup> See paragraph 1.1. of the CPIA Code

## Part 2 – Before the inspection

### Actions on receiving information

12. Ofsted may receive information regarding possible unregistered schools from a variety of sources including, but not limited to, the DfE, parents, local authorities or the police.
13. Where initial information is provided by a source other than the DfE, Ofsted will inform the DfE about the possibility of there being an unregistered school. Ofsted will also enquire whether a valid application to register the institution as an independent school has already been made to the DfE and whether the DfE has additional information about the institution.
14. The information-sharing arrangements between Ofsted and the DfE are set out in the 'Memorandum of understanding between Ofsted and DfE: independent schools'.<sup>7</sup>
15. If during the course of the pre-inspection investigation, the inspectors find evidence of concerns about safeguarding and/or welfare of children at a setting the inspectors will, as soon as possible, contact the local authority director of children's services. Inspectors will check to see if the relevant local authority holds information about the institution and will record any such evidence in line with part 4 of this handbook.
16. Ofsted and/or the DfE may also check with the police to determine whether they hold information about the institution.
17. Ofsted may make enquiries to determine who owns the premises where the business of the institution is conducted or who is listed as a director for any relevant organisation allegedly operating from the premises.
18. Where Ofsted concludes that there is no reasonable cause to believe that an offence under section 96 is being committed at the premises concerned, but considers that there are safeguarding concerns regarding the institution and the education received by any of the children there, it will inform the DfE and the relevant local authority of these concerns. The local authority should ensure that children of compulsory school age who are attending the institution are receiving suitable full-time education.
19. Ofsted will store the evidence relating to any decision not to inspect in line with its retention and disposal policy.<sup>8</sup> Ofsted may periodically review both the

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<sup>7</sup> 'Memorandum of understanding: independent schools: the Office for Standards in Education, Children's Services and Skills (Ofsted) and the Department for Education (DfE)'; [www.gov.uk/government/publications/memorandum-of-understanding-independent-schools](http://www.gov.uk/government/publications/memorandum-of-understanding-independent-schools).

<sup>8</sup> 'Retention and disposing of information': this is an internal only document. Inspectors can access this through the engagement hub.

information it has received regarding the institution and its decision regarding inspection.

## **Decision to inspect**

20. Where Ofsted concludes that there is reasonable cause to believe that an offence under section 96 is being committed, it may exercise its discretion to arrange for an inspection of the institution under section 97 to take place, and will inform the DfE of its decision. Ofsted will also record the reasons for its decision to inspect the institution.
21. Ofsted will deploy one or more of Her Majesty's Inspectors (HMI) and/or Ofsted Inspectors (OI) to carry out the inspection. One of the HMI will be appointed as lead inspector, or where only one person carries out the inspection, that person will be the lead inspector.
22. The size of the inspection team will be influenced by the number of sites involved and the nature of the information that Ofsted has received about the institution.
23. Where Ofsted concludes that there is reasonable cause to believe that the institution has a boarding facility, an SCRI or a social care HMI may be deployed on the team<sup>9</sup>.
24. Where Ofsted concludes there is reason to believe that the institution provides early years provision, an early years regulatory inspector may be deployed on the team.
25. Based on the available information, Ofsted will decide whether the relevant local authority or police support may be required. In appropriate cases, Ofsted will request their attendance during an inspection. For example, where the inspectors believe that there is a risk of harm to children at the premises.

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<sup>9</sup> For more information about inspections of residential provision please see: '[The framework for inspecting boarding and residential provision in schools](http://www.gov.uk/government/publications/the-framework-for-inspecting-boarding-and-residential-provision-in-schools)', Ofsted, 2016; [www.gov.uk/government/publications/the-framework-for-inspecting-boarding-and-residential-provision-in-schools](http://www.gov.uk/government/publications/the-framework-for-inspecting-boarding-and-residential-provision-in-schools)

## **Part 3 – During the inspection**

### **Arrival at the institution**

26. Inspections under section 97 may be conducted at any reasonable time without notice.
27. On arrival at the premises concerned, the inspector(s) will attempt to enter and inspect the premises. The lead inspector will explain that the inspection is being carried out under section 97 of the Education and Skills Act 2008. The lead inspector will explain that s/he has reasonable cause to believe that an unregistered independent educational institution is being conducted at the premises.

### **Ofsted's powers of entry**

28. Section 97 of the Education and Skills Act 2008 provides a right of entry to all types of premises to carry out an inspection under section 97, including a private house. A copy of the legislation is available at Annex A.
29. Under section 97(4) of the Education and Skills Act 2008, obstructing an inspector in performing their functions in relation to a section 97 inspection is an offence. If there is any evidence of intentional obstruction during an inspection or the lead inspector considers, before visiting to inspect, that there is a risk of intentional obstruction, the lead inspector may contact the police to ask them to attend.
30. If any inspector is unable to gain entry to any part of premises in accordance with section 97, the lead inspector may arrange for assistance from the police or re-schedule the inspection.

### **Conduct of the inspection**

31. Once inspectors have gained entry, they will undertake the inspection and gather evidence in accordance with part 4 of this handbook. Inspectors will gather evidence to establish whether an unregistered independent school is being conducted at the premises. Inspectors will take copies of documents and records that there is reasonable cause to believe may be required for the purposes of proceedings in relation to the offence.
32. If during an inspection under section 97 of the Education and Skills Act 2008, inspectors identify possible unregistered childcare provision or if there is any uncertainty about the registration of childcare provision at the premises concerned, the inspector must contact the Applications, Regulatory and Contact team and report their concern promptly. Full details of how we deal with matters of compliance and the action we take are set out in the Compliance, investigation and enforcement handbook.

33. Inspectors will establish whether overnight accommodation is provided for any child at the premises concerned. Inspectors will determine whether the child's welfare is properly safeguarded and promoted and will take prompt and appropriate action on any safeguarding or health and safety issues. The inspector(s) will record the necessary evidence in line with part 4 of this handbook. Where inspectors are concerned about harm or possible harm to a child, they will contact the local authority or the police immediately and will inform the relevant Ofsted regional director and Ofsted's regional regulatory teams.

### **Welfare concerns**

34. During the course of an inspection under section 97 of the Education and Skills Act 2008, the inspector(s) may find evidence that is relevant to Ofsted's duty to have regard to the need to safeguard and promote the rights and welfare of children and young people under section 117(2)(a) of the Education and Inspections Act 2006.
35. The inspector(s) will record any such evidence in line with part 4 of this handbook and will immediately contact, the local authority director of children's services, the police and the DfE.

### **Establishing judgements at the end of the inspection**

36. At the end of the inspection, the lead inspector will judge whether, based on the available evidence gathered at that time, there is an unregistered independent school being conducted on the premises.
37. The lead inspector will inform whoever appears to that inspector to be the most senior person present representing the institution of their judgement.

### **Cautioning suspects**

38. As soon as an inspector suspects that a person may have been or may be, committing an offence, the inspector will caution the person in line with Code C of the Police and Criminal Evidence (PACE) Act 1984 Codes of Practice<sup>10</sup> before asking any further questions.
39. The wording of the caution is as follows: 'You do not have to say anything, but it may harm your defence if you do not mention, when questioned, something which you later rely on in court. Anything you do say may be given in evidence.'
40. The caution advises a person about her or his right, if asked to explain her or his actions or omissions in any criminal proceedings.

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<sup>10</sup> Code C of the Police and Criminal Evidence Act Codes of Practice 1984;  
[www.gov.uk/guidance/police-and-criminal-evidence-act-1984-pace-codes-of-practice](http://www.gov.uk/guidance/police-and-criminal-evidence-act-1984-pace-codes-of-practice).



41. When cautioning someone, the inspector should record in their notebook: the time that the caution was read out; any questions the suspect asks and the responses given; the presence of any other persons at the time of the caution being read out; and those present when any comments are made by a suspect.
42. If any significant statements are made in relation to the offence being investigated, these should be written down on a separate sheet and the suspect will be asked to sign the sheet to confirm that they made the statement as recorded.
43. Where the inspection team reasonably believes that a person may have committed a relevant offence, they may invite the suspect to attend one or more interviews under caution in accordance with the Police and Criminal Evidence Act 1984 and accompanying Codes of Practice.

### **Warning notice**

44. If the lead inspector concludes that the institution is operating as an unregistered independent school, the lead inspector will explain to whomever appears to be the most senior person present that it is a criminal offence to conduct an unregistered independent school.
45. The lead inspector will ensure that the most senior person present is also informed of the legal implications of continuing to operate an unregistered independent school. The lead inspector will provide the person who appears to be the most senior person present with a warning notice outlining the implications of continuing to operate an unregistered independent school.
46. The warning notice states the HMI's judgement based on the available evidence that an unregistered school is being conducted on the premises and should cease to operate illegally with immediate effect. A model warning notice is available in annex B. Inspectors may also write to the registered addresses of any other legal entity suspected of conducting an unregistered independent school.
47. Any person suspected of the offence under section 96 of the Education and Skills Act 2008 should be invited for a voluntary interview under caution and in accordance with the Police and Criminal Evidence Act 1984. Such interviews may take place on more than one occasion.

## Part 4 – Evidence

### Gathering of evidence

48. The lead inspector must ensure that material relevant to an investigation for which they are responsible is recorded in writing, on video, on audio tape, or on computer.
49. Where information which may be relevant to the investigation is obtained, including during pre-inspection activity, a note must be recorded at the time, to confirm where and when it was obtained. This includes copies taken of documents during an inspection under section 97 of the Education and Skills Act 2008 or the record of a conversation with a potential witness.
50. During an inspection under section 97 inspectors have the right to inspect and take copies of any hard-copy or electronic records or other documents that they have reasonable cause to believe may be required for the purposes of proceedings in relation to such an offence. In addition, inspectors have a right of access to and inspection of any records or other documents held on computers for the purpose of the inspection.<sup>11</sup>
51. Inspectors will make notes as contemporaneously as possible throughout the inspection. Notes will be sequentially page-numbered.

### Photographs

52. When the inspectors judge that they need photographic or moving image recording evidence, they must record the details of the evidence in line with the Home Office guidance.<sup>12</sup>
53. All photographs or moving images taken during an inspection or investigation will be stored and produced as evidence in accordance with the Home Office guidance.

### Storage of material

54. At all stages, any material which may be relevant to the investigation will be stored securely and its location recorded and logged.
55. Material stored will be appropriately marked with a covering sheet, to identify the content, the exhibit reference and an activity log that must be completed by any person having access to the material throughout the investigation.

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<sup>11</sup> See section 58 of the Education Act 2005 (computer records).

<sup>12</sup> Police and Criminal Evidence Act 1984.

## Retention of material

56. The lead inspector must make arrangements for the retention of any material obtained in a criminal investigation that may be relevant to the investigation.
57. The duty to retain material, where it may be relevant to the investigation, also includes in particular the duty to retain material that casts doubt on the reliability of a confession; any material that casts doubt on the reliability of a prosecution witness; and any information provided by an accused person that indicates an explanation for the offence.
58. The duty to retain material does not extend to items purely ancillary, such as duplicate copies of records or reports.
59. All material that may be relevant to the investigation must be retained until a decision is taken whether to institute proceedings against a person for an offence.
60. If a criminal investigation results in proceedings being instituted, all material that may be relevant must be retained at least until the accused is acquitted or the prosecutor decides not to proceed with the case.
61. Where the accused is convicted, material that may be relevant must be retained until six months after the date of conviction or until any appeal against conviction is determined (whichever is later).
62. All material that may be relevant will be retained securely at an Ofsted office or other suitable storage facility until the time periods (above) have elapsed, after which time, all papers will be archived for a minimum of seven years.

## Material held by third parties

63. In accordance with the Criminal Procedure and Investigations Act 1996 Codes of Practice and the Attorney General's Guidelines on Disclosure,<sup>13</sup> the lead inspector will have overall responsibility for pursuing all reasonable lines of inquiry and this may involve seeking disclosure from a third party.
64. Where material is held by a third party such as a local authority, social services department or the police, the inspector may need to make enquiries of the third party.
65. The inspector may make these enquiries when it is considered necessary to assess and gather any material that might reasonably be considered capable of undermining the case for prosecution or assisting the case for the defence. Further, consideration should then be given as to whether any or all of that

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<sup>13</sup> 'Attorney General's Guidelines on Disclosure', The Crown Prosecution Service; [www.cps.gov.uk/legal/a\\_to\\_c/attorney\\_generals\\_guidelines\\_on\\_disclosure/](http://www.cps.gov.uk/legal/a_to_c/attorney_generals_guidelines_on_disclosure/).

material should be retained, recorded and, in due course, disclosed to the accused.

66. However, speculative enquiries without any proper basis in relation to third party material should not be carried out.
67. The inspection team therefore will only make such enquiries if they have cause to believe that a third party may hold material relevant to the investigation.

## Part 5 – After the inspection

### Reporting the inspection findings

68. The lead inspector will report the inspection findings to the DfE/Secretary of State in an 'Advice note for conducting inspections under section 97 of the Education and Skills Act 2008'. Ofsted will not publish any of these advice notes.
69. Ofsted will provide the relevant local authority with information regarding pupils who may be attending unregistered independent schools within the local authority's area. This will be done where Ofsted considers that the sharing of the information is lawful and, in particular, in accordance with the Data Protection Act 1998 and the Human Rights Act 1998.
70. Local authorities have a duty to provide services for the children in need in their area, in order to promote and safeguard their welfare. In providing such services, a local authority should take all reasonable steps to prevent children in their area from suffering ill-treatment or neglect. This duty applies to both permanent residents and children who may be found within the local authority area.<sup>14</sup>
71. Where Ofsted believes that a child may not be receiving a suitable education, it will also share information regarding that child with the relevant local authority. This is to enable local authorities to exercise their functions under section 437(1) of the Education Act 1996, which allows them to intervene where it appears that parents are not providing a suitable education. This will only be done where Ofsted considers that the sharing of the information is lawful and, in particular, in accordance with the Data Protection Act 1998 and the Human Rights Act 1998.
72. Where necessary, Ofsted will provide extracts from the advice note to the police, for example where there is an urgent need to take action because children appear to be at risk of harm. Ofsted will only do this where the sharing of the information would be lawful and, in particular, complies with the Data Protection Act 1998 and the Human Rights Act 1998.
73. Where the institution in question is known to be related to a previously or currently registered independent school or an institution for which an application was unsuccessfully made to the Secretary of State to register as an independent school, this will be recorded in the advice note.
74. Where the institution's premises have previously been inspected under section 97 or where Ofsted has attempted previously to carry out an inspection of the premises concerned under section 97, this will also be reported in the advice note.

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<sup>14</sup> Section 17 Children Act 1989 and paragraph 4 of Schedule 2 to that Act.

75. At the end of the advice note, the lead inspector will report whether, in light of the evidence gathered, they suspect that the institution is or is not an unregistered independent school.
76. In accordance with the DfE's prosecution policy,<sup>15</sup> where an institution is identified as operating unlawfully, the DfE will make clear to the institution that it must not operate as a school in advance of registration being granted and must cease to operate.
77. If the institution continues to operate as a school without registration, the Secretary of State may exercise her power to pursue the prosecution of the person(s) conducting the unregistered independent school. The Secretary of State may take immediate steps to exercise her power to pursue a prosecution if it is considered appropriate to do so given the seriousness of particular circumstances. Where necessary, Ofsted may consider carrying out inspections of any early years or social care providers operating at the same premises.
78. As the regulator of independent schools, the DfE will take all reasonable steps to ensure that children are safe and work with the Crown Prosecution Service and Ofsted to pursue prosecutions promptly.

### **Recorded interviews under caution**

79. Any interviews with a suspect will be conducted under caution in a manner that complies with the Police and Criminal Evidence Act 1984 and the accompanying Codes of Practice. Suspects will be told how Ofsted will store the records of their interview and how they can access a copy of the recording, if they are summoned to court for any offence. Where a suspect is a legal entity other than an individual, an appropriate representative of the legal entity must also be interviewed.
80. An Ofsted staff member trained in the conduct of PACE interviews must be present throughout the interview. If a person fails to attend an interview under caution or refuses to attend such an interview, this does not prevent that person from being prosecuted. In these cases, the prosecution may be required to demonstrate to the court the actions taken to try to carry out such an interview.

### **Further inspection**

81. Ofsted may consider carrying out a further inspection at the same premises where there is reasonable cause to do so, for instance where additional information about the institution becomes known suggesting that an offence under section 96 is being committed. Ofsted will corroborate any new

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<sup>15</sup> DfE policy statement: prosecuting unregistered independent schools;  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/492965/Prosecuting\\_unregistered\\_independent\\_schools.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/492965/Prosecuting_unregistered_independent_schools.pdf)

information in line with this handbook to decide whether it has reasonable cause to believe that an unregistered independent school is being conducted and whether a further inspection under section 97 should go ahead.

### **Further investigations**

82. Having considered an Ofsted advice note, the Secretary of State may decide that a further investigation would be appropriate in order to inform a decision on whether or not to give consent to prosecute, or any other action. Ofsted will hold a case discussion if it is requested by the DfE to carry out further investigations.

### **Case discussion**

83. The case discussion will include, where possible, the lead inspector and any other inspectors involved in a relevant section 97 inspection and where appropriate, legal support. Minutes will be taken and stored in accordance with part 4 of this handbook.
84. During the case discussion, the lead inspector or the disclosure officer will review the available evidence and will seek to identify further evidence that is required. This might include taking statements from the inspectors concerned, local authority employees, police officers or parents. Where appropriate, the lead inspector may schedule further case discussions.

### **Reporting the outcome of the investigation to the DfE**

85. At such time as the lead inspector and/or the disclosure officer are satisfied that all reasonable lines of enquiry have been exhausted, the lead inspector will decide whether s/he considers that a criminal offence can be proved to the criminal standard and if so then whether s/he considers that it is in the public interest for there to be a prosecution. Where the lead inspector considers that both tests are satisfied, s/he will provide a report outlining all evidence gathered to the CPS. The CPS will apply the Full Code Test<sup>16</sup> and determine whether any person or other legal entity should be charged. No prosecution may take place unless consent is given by the Secretary of State in accordance with section 134 Education and Skills Act 2008.

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<sup>16</sup> Code for Crown Prosecutors;  
[www.cps.gov.uk/publications/code\\_for\\_crown\\_prosecutors/codetest.html](http://www.cps.gov.uk/publications/code_for_crown_prosecutors/codetest.html)

## **Annex A – Legislation – Education and Skills Act 2008**

### **Requirement of registration**

#### **95 The registers**

- (1) The Secretary of State must keep a register of independent educational institutions.
- (2) The register is to be known as 'the register of independent educational institutions in England'.
- (3) The Secretary of State must publish the register in such manner, and at such times, as the Secretary of State considers appropriate.

#### **96 Unregistered independent educational institutions: offence**

- (1) A person must not conduct an independent educational institution unless it is registered.
- (2) A person who conducts an independent educational institution in contravention of subsection (1) is guilty of an offence.
- (3) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 5 on the standard scale (or to both).
- (4) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c 44), for '51 weeks' in subsection (3) substitute 'six months'.

#### **97 Unregistered independent educational institutions: inspection**

- (1) Where the Chief Inspector has reasonable cause to believe that an offence under section 96 is being committed on any premises, the Chief Inspector may at any reasonable time:
  - (a) enter and inspect the premises, and
  - (b) inspect and take copies of any records or other documents which the Chief Inspector has reasonable cause to believe may be required for the purposes of proceedings in relation to such an offence.
- (2) Section 58 of the Education Act 2005 (c 18) (computer records) applies in relation to the inspection of records or other documents under this section.
- (3) This section does not confer power to inspect or take copies of anything of a kind specified in section 9(2) of the Police and Criminal Evidence Act 1984 (c 60) (legally privileged material etc.)



- (4) It is an offence intentionally to obstruct a person in the exercise of the person's functions in relation to the inspection.
- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## **Registration procedure**

### **98 Applications for registration**

- (1) The proprietor of an independent educational institution must apply to the Secretary of State for the institution to be entered on the register.
- (2) An application to enter an institution in the register must:
  - (a) contain the prescribed information, and
  - (b) be made in the prescribed manner.
- (3) The information prescribed under subsection (2)(a) must include information as to the following matters relating to the institution:
  - (a) whether the institution is –
    - (i) an independent school, or
    - (ii) an institution within section 92(1)(b)
  - (b) the age range of students
  - (c) the maximum number of students
  - (d) whether the institution is for male or female students or both
  - (e) whether the institution provides accommodation for students
  - (f) whether the institution is specially organised to make special educational provision for students with special educational needs
  - (g) in the case of an institution within paragraph (f), the type or types of special educational needs for which the institution is specially organised to make special educational provision.
- (4) The Secretary of State must notify the Chief Inspector of an application under this section.

**The registration authority for independent schools is the Department for Education (DfE)**

Independent Education and Boarding Team (IEBT)  
Department for Education  
Mowden Hall  
Staindrop Road  
Darlington  
DL3 9BG

Telephone: 01325 735 304

Email: [registration.enquiries@education.gsi.gov.uk](mailto:registration.enquiries@education.gsi.gov.uk)

Website: [www.gov.uk/independent-school-registration](http://www.gov.uk/independent-school-registration)

## **Annex B – Model warning notice**

### **Warning**

**To the proprietor or the person responsible for conducting a suspected unregistered independent educational institution in England**

### **Her Majesty’s Inspector:**

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Based on the evidence gathered, I believe that an unregistered independent educational institution is being conducted at (insert address):

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I serve this warning on (print name, role and address of the person):

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By virtue of section 96 of the Education and Skills Act 2008 (“the 2008 Act”), it is a criminal offence to conduct an unregistered independent educational institution in England.

All such institutions must be registered with the Secretary of State in accordance with Chapter 1 of Part 4 of the Education and Skills Act 2008.

The purpose of this notice is to-

- (a) warn the proprietor or the person responsible for managing the above institution of the offence in section 96 of the 2008 Act; and
- (b) require that person to cease conducting an unregistered independent educational institution without delay.

A person guilty of an offence under section 96 of the 2008 Act is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.

Ofsted will work with all relevant government departments and agencies to ensure that any person found guilty of the above offence is prohibited, without delay, from operating as an illegal school.

Signed  
Name, HMI

Date

## Annex C – Glossary

The following terms used in this document are explained below

Boarding facility	Accommodation for children with a provision for overnight facilities.
Data Protection Act 1998	The Data Protection Act 1998 controls how personal information is processed by organisations, businesses or the government.
Early years provision	Childcare providers caring for children aged from birth to the 31 August following their fifth birthday.
Human Rights Act 1998	The Act incorporates into UK law certain rights and freedoms contained in the European Convention on Human Rights. In particular, the Act makes it unlawful for any public body to act in a way which is incompatible with the Convention.
Police and Criminal Evidence Act 1984	The Police and Criminal Evidence Act (PACE) 1984 and the associated PACE Codes of Practice (as revised). Where relevant, these will be applied by HMI and Ofsted inspectors who undertake an inspection which may result in a prosecution. Ofsted carries out its investigations in line with these codes.
Unregistered school	An independent school not entered in the register of independent educational institutions in England' required to be kept by the Secretary of State under section 95 of the 2008 Act.

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